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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives

COMMITTEE ON STANDARDS OF
OFFICIAL CONDUCT

Washington, DC 20515-6328

May 3, 2007

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The Honorable Ken Calvert
U.S. House of Representatives
2201 Rayburn House Office Building
Washington, D.C. 20515

Dear Colleague:

This responds to your letter of March 14, 2007 seeking guidance as to whether you have a "financial interest" in a certain earmark that you have requested. As explained below, we conclude that you do not. According to your letter, your 2005 Financial Disclosure Statement, and additional information provided to Committee counsel by your staff, the background on this matter is as follows.

You have submitted a \$5.6 million earmark request to support the Corona Transit Center. When completed, the Corona Transit Center will serve as a multi-modal transit center that will be used primarily by commuters traveling by rail to Orange, Los Angeles, and San Bernardino Counties. It will also serve as a hub for planned express bus service and serve as a transfer point for inter and intra-county bus connections. You have successfully sought earmarks in previous years for the Corona Transit Center. Specifically, you obtained \$500,000 in 2006 and \$700,000 in 2004. You included with your letter numerous letters from Riverside County municipalities in support of the project.

You have an ownership interest in seven properties in the vicinity of the Corona Transit Center. They are as follows:

- A mini-storage facility valued at \$1 to \$5 million located 0.5 miles from the Corona Transit Center on East 3rd Street.
- An office/retail building valued at \$250,001 to \$500,000, located 0.7 miles from the Corona Transit Center at 624 Grand Boulevard.
- A retail building valued at \$100,001 and \$250,000, located 0.8 miles from the Corona Transit Center at 501 and 503 East 6th Street.
- An office building valued at \$250,000 and \$500,000 located 0.1 miles from the Corona Transit Center at 63 West Grand Boulevard.

- A building housing two restaurants valued at \$500,001 and \$1 million located 1.2 miles from the Corona Transit Center at Lincoln Avenue and SR-91.
- A multi-tenant industrial building valued at \$500,001 to \$1 million located 1.7 miles from the Corona Transit Center at 330 South Sherman Avenue.
- A multi-tenant industrial building valued at \$500,001 and \$1 million located 0.5 miles from the Corona Transit Center at 3rd Street and East Grand Boulevard.

You have provided a map showing the location of each of these properties relative to the Transit Center.

House Rule 23, clause 17, part of the House Code of Official Conduct, requires that Members who request an earmark certify that the requesting Member (and the Member's spouse) "has no financial interest" in the earmark. On March 27, 2007, the Committee issued an advisory memorandum that describes the factors Members must consider when determining whether they have a financial interest in an earmark. The Committee stated that a financial interest will exist in an earmark when it would be reasonable to conclude that the provision would have a "direct and foreseeable effect on the pecuniary interest of the Member."

In the advisory memorandum, the Committee stated that an effect is foreseeable if it is "anticipated or predictable," and we cited 5 C.F.R. § 2640.103(a)(3), a regulation promulgated by the Office of Government Ethics, which defines a similar term, "predictable," as "a real, as opposed to a speculative, possibility that the matter will affect the financial interest." That regulation also defines the term "direct" as "a close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest," and states that a "particular matter that has an effect on a financial interest only as a consequence of its effects on the general economy does not have a direct effect within the meaning of this part." For purposes of this response, we adopt that definition. Further, the Committee stated in the memorandum that a financial interest does not include a "remote, inconsequential, or speculative interest."

Determining whether an earmark would have a direct and foreseeable effect on a Member's interest in real estate, under the definitions set forth in the preceding paragraph, requires the consideration of a number of factors. Such factors may include, but are not limited to, the following:

- the value of the real estate;
- the proximity of the real estate to the area that would benefit from the earmark; and

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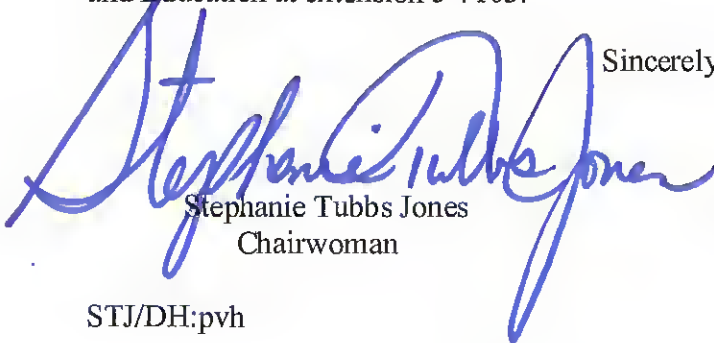
- whether the real estate would be affected uniquely or as part of a class belonging to landowners in the area generally.

Furthermore, we recognize that Members typically own a personal residence or other types of property in their congressional district, and that one of a Member's principal responsibilities is to promote the interests of the district, including by seeking funding for roads, utilities, and other public works projects.

Based on the representations made to the Committee in this matter, we conclude that it is within your discretion for you to conclude that your properties do not constitute a financial interest in the earmark supporting the Corona Transit Center. Of primary consideration here, it is our understanding that the Corona Transit Center project will not immediately affect the use of any of your properties or provide any other direct or unique benefits to the properties. It appears that any increase in the value of your properties resulting from the earmark would be incremental and indirect, and would be experienced as a member of a class of landholders in the vicinity of the Transit Center.

If you have any further questions, please contact the Committee's Office of Advice and Education at extension 5-7103.

Sincerely,



Stephanie Tubbs Jones
Chairwoman



Doc Hastings
Ranking Republican Member

STJ/DH:pvh